



POSTAL REGULATORY COMMISSION

[Docket No. PI2013-1; Order No. 1782]

Public Inquiry on Competitive Products Fund

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is establishing a proceeding to review several issues concerning the Competitive Products Fund. These include inter-fund transfers (of amounts from the Postal Service Fund to the Competitive Products Fund); the use of amounts from the Competitive Products Fund to prepay certain costs; and calculation and transfer of the assumed federal income tax. The Commission is also issuing a related information request directed to the Postal Service. Following receipt of the Postal Service's responses, the Commission may take further steps, including issuance of a notice of inquiry or an invitation for public comment. This notice informs the public of this proceeding and the information request and takes other administrative steps.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

In the Fiscal Year (FY) 2012 Annual Compliance Determination Report (ACD), the Commission found that transfers between the Postal Service Fund and the Competitive Products Fund raised several issues of first impression.¹ The Commission stated that it would initiate a proceeding to review transfers from the Postal Service Fund to the Competitive Products Fund, the use of amounts from the Competitive Products Fund to prepay competitive products' future years' institutional costs, and the calculation and transfer of the assumed federal income tax. *Id.* (citing 39 U.S.C. 2011(h)(2)(C)(ii) and 39 CFR 3060.42).

II. Background

¹ Docket No. ACR2012, Annual Compliance Determination Report Fiscal Year 2012, March 28, 2013, at 175 (FY 2012 ACD).

In Docket No. ACR2012, the Commission found that beginning in October 2012, the National Trial Balance showed a zero balance for Account Number 12010.000 Competitive Products Investments Fund, and the corresponding Competitive Products Fund line item was eliminated from Table III-Detail of Treasury Securities Outstanding of the Monthly Statement of the Public Debt of the United States.² The Postal Service informed the Commission that the zero balance likely resulted from a transfer of the balance in the Competitive Products Fund to the Postal Service Fund to prepay competitive products' shares of future years' institutional costs.³ The zero balance in the Competitive Products Fund raised concerns that the Postal Service would be unable to comply with 39 U.S.C. 3634, which requires that the Postal Service transfer the assumed federal income tax on competitive products for the previous fiscal year from the Competitive Products Fund to the Postal Service Fund by January 15th each year.

The Postal Service explained that on October 12, 2012, it transferred the balance of the Competitive Products Fund to the Postal Service Fund. *Id.* The Postal Service stated that the assumed federal income tax transfer occurred on January 10, 2013 by transferring the amount representing the Net Income after

² See Docket No. ACR2012, Chairman's Information Request No. 8, February 8, 2013, at 5.

³ Docket No. ACR2012, Responses of the United States Postal Service to Questions 1-6 and 8-13 of Chairman's Information Request No. 8, February 15, 2013, at question 8 (ACD CHIR Response).

Tax from the Postal Service Fund to the Competitive Products Fund. *Id.* at question 9. The Postal Service stated that this transfer was mathematically identical to transferring the Net Income before Tax from the Postal Service Fund to the Competitive Products Fund so that the assumed federal income tax could be transferred back from the Competitive Products Fund to the Postal Service Fund. *Id.* Therefore, on January 10, 2013, the Postal Service transferred the FY 2012 Net Income after Tax amount of \$525,564,000 from the Postal Service Fund to the Competitive Products Fund. *Id.* On January 11, 2013, as an additional prepayment of competitive products' shares of future years' institutional costs, the Postal Service transferred the balance of the Competitive Products Fund to the Postal Service Fund. *Id.*

III. Public Inquiry

Since the issues associated with these transfers were not within the scope of the ACD, the Commission stated that it would initiate a proceeding to review transfers of amounts from the Postal Service Fund to the Competitive Products Fund, the use of amounts from the Competitive Products Fund to prepay competitive products' future years' institutional costs, and the calculation and transfer of the assumed federal income tax. FY 2012 ACD at 175 (citing 39 U.S.C. 2011(h)(2)(C)(ii) and 39 CFR 3060.42). To foster transparency, the Commission establishes Docket No. PI2013-1 to review these issues.

Commission Information Request No. 1 (CIR No. 1) is issued contemporaneously with this Notice. It seeks further clarification from the Postal Service on the issues described in this Notice in order to increase transparency and develop a more complete record. After the Commission has received the Postal Service's responses, the Commission may issue a Notice of Inquiry or invite public comment.

IV. Public Representative

Section 505 of title 39 requires designation of an officer of the Commission in all public proceedings to represent the interests of the general public. The Commission hereby designates Richard A. Oliver as Public Representative in this proceeding.

V. Ordering Paragraphs

It is ordered:

1. The Commission hereby establishes Docket No. PI2013-1 to review the issues related to the Competitive Products Fund set forth in the Commission's FY 2012 Annual Compliance Determination.

2. Richard A. Oliver is designated as the Public Representative to represent the interests of the general public in this proceeding.

3. The Secretary shall arrange for publication of this notice in the *Federal Register*.

By the Commission.

Shoshana M. Grove,

Secretary.

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